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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**OCT 25 2005**

First Named Applicant: Carl C. McAdams	
Application No.: 09/921,841 (CONF 8625)	Group Art Unit: 2188
Filed: 8/2/2001	Examiner: John A. Lane
Title: Private memory access in multi-node system	
Attorney Docket No.: BEA920010012US1	

Assistant Commissioner for Patents  
Washington, D.C. 20231

**PETITIONS TO REVIVE AND ASSOCIATED PAPERS**

The following petitions to revive and associated papers are being filed herewith:

- (1) A Petition for Revival of an Application for Patent Abandoned Unavoidably Under 37 CFR 1.137(a), including Form PTO-2038 to charge the petition fee to a card card.
- (2) (in the alternative) A Petition for Revival of an Application for Patent Abandoned Unintentionally Under 37 CFR 1.137(b), including Form PTO-2038 for charge the petition fee to a credit card.
- (3) A Request for Continuing Examination (RCE) Transmittal, and duplicate copy thereof to charge the RCE fee to a deposit account, where the RCE is to be entered upon granting the Petition of (1) above or the Petition of (2) above.
- (4) Supporting Document for Petitions to Revive (7 pages total), which are to be considered in support of the Petition of (1) above as well as in support of the Petition of (2) above.


Respectfully Submitted,



Michael A. Dryja, Reg. No. 39,662  
Attorney/Agent for Applicant(s)

October 25, 2005  
Date

I hereby certify that this correspondence is being facsimiled transmitted to the U.S. Patent and Trademark Office on October 25, 2005, for a total of SEVENTEEN (17) pages, to (571) 273-8300.



Michael Dryja

Law Offices of Michael Dryja  
704 228<sup>th</sup> Ave NE #694  
Sammamish, WA 98074  
tel: 425-427-5094  
fax: 206-374-2819

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**OCT 26 2005**

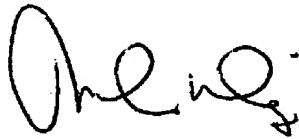


PTO/SB/61 (07-05)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNAVOIDABLY UNDER 37 CFR 1.137(a)****3. Terminal disclaimer with disclaimer fee**☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$\_\_\_\_\_ for a small entity or \$\_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).**4. An adequate showing of the cause of the delay, and that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(a) was unavoidable, is enclosed.****WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

Signature

Michael A. Dryja

Typed or printed name

704 228th Avenue NE, PMB 694

Address

Sammamish, WA 98074

Address

October 25, 2005

Date

39662

Registration Number, if applicable

425-427-5094

Telephone Number

Enclosure ☒ Fee Payment☒ Reply☐ Terminal Disclaimer Form☒ Additional sheets containing statements establishing unavoidable delay☐**CERTIFICATE OF MAILING OR TRANSMISSION (37 CFR 1.8(a))**

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.☒ transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

October 25, 2005

Date



Signature

Michael A. Dryja

Typed or printed name of person signing certificate

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
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**NOTE:** The following showing of the cause of unavoidable delay must be signed by all applicants or by any other party who is presenting statements concerning the cause of delay.



Signature

October 25, 2005

Date

Michael A. Dryja

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(In the space provided below, please explain in detail the reasons for the delay in filing a proper reply.)

Please see attached "supporting document for petitions to revive."

*(Please attach additional sheets if additional space is needed.)*

[Page 3 of 3]

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<b>PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)</b>	Docket Number (Optional) BEA920010012US1
<p>First named inventor: McAdams, Carl C.</p> <p>Application No.: 09/921,841                      Art Unit: 2188</p> <p>Filed: 8/2/2001                                      Examiner: John A. Lane</p> <p>Title: Private memory access in multi-node system</p> <p>Attention: Office of Petitions Mail Stop Petition Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450 FAX: (571) 273-8300</p> <p>NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.</p> <p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.</p> <p style="text-align: center;"><b>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</b></p> <p>NOTE: A grantable petition requires the following items:</p> <ul style="list-style-type: none"> <li>(1) Petition fee;</li> <li>(2) Reply and/or issue fee;</li> <li>(3) Terminal disclaimer with disclaimer fee — required for all utility and plant applications filed before June 8, 1995; and for all design applications; and</li> <li>(4) Statement that the entire delay was unintentional.</li> </ul> <p>1. Petition fee</p> <p><input type="checkbox"/> Small entity-fee \$ _____ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.</p> <p><input checked="" type="checkbox"/> Other than small entity - fee \$ <u>1,500.00</u> (37 CFR 1.17(m)).      10/27/2005 BABRAHA1 00000021 501336 09921841</p> <p>2. Reply and/or fee      02 FC:1453      1500.00 OP</p> <p>A. The reply and/or fee to the above-noted Office action in the form of a <u>Request for Continuing Examination (RCE)</u> (identify type of reply):</p> <p><input type="checkbox"/> has been filed previously on _____.</p> <p><input checked="" type="checkbox"/> is enclosed herewith.</p> <p>B. The issue fee and publication fee (if applicable) of \$ _____.</p> <p><input type="checkbox"/> has been paid previously on _____.</p> <p><input type="checkbox"/> is enclosed herewith.</p>	

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This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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## 3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$\_\_\_\_\_ for a small entity or \$\_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE. The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

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Telephone Number

Enclosures:

- ☒ Fee Payment
- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unintentional delay -- see "Supporting Documents for Petition to Revive"
- ☐ Other: \_\_\_\_\_

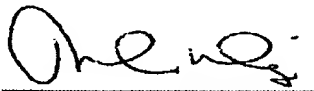
## CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

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- ☐ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
- ☒ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

October 25, 2005

Date



Signature

Michael A. Dryja

Typed or printed name of person signing certificate

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

First Named Applicant: Carl C. McAdams	<b>RECEIVED</b> <b>CENTRAL FAX CENTER</b>  <b>OCT 25 2005</b>
Application No.: 09/921,841 (CONF 8625)	
Filed: 8/2/2001	
Title: Private memory access in multi-node system	
Attorney Docket No.: BEA920010012US1	
Group Art Unit: 2188	Examiner: John A. Lane

Assistant Commissioner for Patents  
Washington, D.C. 20231

**SUPPORTING DOCUMENT FOR PETITIONS TO REVIVE****Timeline**

Date	Action
10-19-2004	Mailing of final office action
12-15-2004	Filing of final office action response
3-29-2005	Mailing of first advisory action
4-18-2005	Examiner interview
4-19-2005	Filing of supplemental final office action response; six-month date of final office action
9-19-2005	Application goes abandoned (last date at which response to final office action can be filed, with the maximum five-month extension from the six-month date of the final office action)
9-30-2005	Mailing of second advisory action
10-7-2005 through 10-18-2005	Various telephone and voicemail communications with the Examiner to determine next course of action
10-14-2005	Mailing of notice of abandonment
10-18-2005 through 10-24-2005	Various telephone and email communications with client to determine next course of action
10-25-2005	Filing of petition to revive

**Detailed explanation of course of events**

On October 19, 2004, the final office action in the present patent application was mailed. Applicant filed a final office action response within the two-month date of the mailing of the final office action, specifically on December 15, 2004. More than three months later, on March 29, 2005, a first advisory action was mailed.

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Upon reviewing the first advisory action, Applicant's representative, Michael Dryja, believed that allowance of the present patent application could be secured with a minor amendment to the claims. Therefore, Mr. Dryja conducted an interview with the Examiner on April 18, 2005. Mr. Dryja's notes regarding the interview indicate that the Examiner appears to have agreed with Mr. Dryja, but requested that a supplemental final office action response to be filed, so that the Examiner could review the proposed amendment in more detail.

Therefore, on April 19, 2005, a supplemental final office action response was filed, proposing the amendment discussed with the Examiner on April 18, 2005. In this response, a summary of the Examiner interview conducted on April 18, 2005 was provided, in which it is stated that "[t]he Examiner indicated that this amendment would probably render the claims allowable, but requested that Applicant submit a supplemental final office action response." It is noted that the Examiner himself did not file an interview summary of this interview.

The date that the supplemental final office action response was filed, April 19, 2005, is also the six-month date of the final office action response, such that all responses to the final office action had to be filed by April 19, 2005.

Applicant's representative, Mr. Dryja, did not docket any further due dates once the supplemental office action response was filed on April 19, 2005. Based on his interview with the Examiner conducted a day before the response was filed, Applicant believed that one of two things would occur: first, that the patent application would be allowed; or, second, that a new final or non-final rejection would be issued in response to the supplemental office action response.

After the filing of the supplemental final office action response on April 19, 2005, the next action in this patent application – a second advisory action – was not mailed from the USPTO until September 30, 2005, more than five months after the supplemental office action response had been filed. The second advisory action cursorily dismissed Applicant's proposed amendment in the supplemental office action response, indicating that "further consideration and search" were required.



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There are two important things to note regarding the second advisory action mailed on September 30, 2005. First, it was mailed *after* the patent application had gone abandoned, since the maximum allowed five-month extension to the six-month date of the final office action was nearly two weeks prior, on September 19, 2005. Second, the second advisory action was mailed significantly later than what normally is provided for in USPTO processing. That is, the Examiner in a subsequent interview with Mr. Dryja indicated that he is usually required to respond to supplemental final office action responses within two months of their filing. However, in the present patent application, the supplemental final office action response on April 19, 2005, became "lost" within the USPTO, and did not reach the Examiner until early September.

Once Mr. Dryja received the second advisory action mailed on September 30, 2005, he proceeded to have several telephone and voicemail communications with the Examiner between October 7, 2005, and October 18, 2005. The Examiner indicated to Mr. Dryja, as noted in the previous paragraph, that he would have normally responded to the supplemental final office action response within two months from its filing, as required under conventional USPTO practice, but that the response was "lost" within the "mail room" of the USPTO, and he did not receive the response until early September, almost five months after it had been filed. The Examiner also indicated that he did not have any recollection of the Examiner interview conducted on April 18, 2005. In these telephone and voicemail communications with the Examiner between October 7, 2005, and October 18, 2005, Mr. Dryja urged the Examiner to issue a new non-final or new final office action in the matter, but the Examiner said that there was "nothing he could do" in that respect.

Therefore, between October 18, 2005, and October 24, 2005, Mr. Dryja discussed the options available with a representative of the assignee of the present patent application, to determine how to proceed. The culmination of these discussions is the present petition to revive the patent application, on October 25, 2005.

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Requested revival path

In the first instance, Applicant is petitioning that the present patent application be revived due to its being *unavoidably* abandoned. In the alternative, should that petition be denied, Applicant is petitioning that the present patent application be revived due to its being *unintentionally* abandoned. Applicant has thus file *two* petitions herewith, and requests that the petition to revive base on unavoidability be considered first, and if granted, the second petition be ignored. However, should the petition to revive based on unavoidability be denied, then Applicant requests that the petition to revive based on unintentionality be considered and granted. In any case, this same supporting document is relevant to both of these petitions.

Why the petition to revive based on unavoidability be granted

Applicant first asserts that the petition to revive based on the patent application being unavoidably abandoned be considered and granted. In effect, there was a "perfect storm" of factors that resulted in the present patent application being unavoidably abandoned.

First, there was an apparent miscommunication between the Examiner and Applicant's representative, Michael Dryja, during the Examiner interview conducted on April 18, 2005. Mr. Dryja believed that the application would be allowed, or that at least another final or non-final office action would be mailed, upon the filing of the supplemental final office action response. Therefore, Mr. Dryja did not docket any due dates regarding the present patent application once the supplemental final office action response was filed on April 19, 2005. If there were no miscommunication during the Examiner interview, then Applicant would not have filed a supplemental final office action response, and instead would have filed a Request for Continuing Examination (RCE) in this matter.

Second, the Examiner did not submit his own interview summary of the Examiner interview conducted on April 18, 2005. If the Examiner had submitted such a summary, in which his understanding of the interview would be seen to be different than Mr. Dryja's understanding of

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the interview, then Applicant would definitely have filed an RCE, or another type of communication, that would have defused the "abandonment clock" that began ticking once the final office action was mailed on October 19, 2004.

Third, the supplemental final office action response filed by Applicant on April 19, 2005, became "lost" within the USPTO's "mail room," and therefore did not reach the Examiner until about two weeks before the patent application became abandoned, such that the Examiner did not respond with the second advisory action of September 30, 2005, until nearly two weeks after the patent application had gone abandoned on September 19, 2005. If the supplemental final office action response had not become "lost," and if the Examiner had responded to the supplemental final office action response on a more timely basis, then the second advisory action would have been mailed much earlier. As a result, Applicant would have still had an opportunity to file an RCE, or another type of communication, and simply would have paid an extension of time fee for the months past the six-month date of April 19, 2005, of the final office action, in order to get the RCE or other communication considered.

Thus, if any of the above three events had not occurred exactly as they did, then Applicant would not today be filing a petition to revive an abandoned patent application. Therefore, Applicant truly believes and submits that the abandonment of the patent application was unavoidable. First, Applicant could not have avoided the miscommunication that occurred during the Examiner interview conducted on April 18, 2005, since Mr. Dryja had no way of knowing that the miscommunication had even occurred. Second, Applicant could not have avoided the Examiner failing to submit his own interview summary of this interview, which would have cleared up the miscommunication. Third, Applicant could not have avoided the "losing" of the supplemental final office action response of April 19, 2005, within the "mail room" of the USPTO, such that the advisory action pursuant thereto was not mailed until more than five months later, on September 30, 2005, nearly two weeks after the abandonment of the patent application.

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For these reasons, Applicant requests that the petition to revive based on unavailability be granted, such that the petition to revive based on unintentionality be ignored.

Alternatively, why the petition to revive based on unintentionality be granted

In the alternative, should the USPTO not agree that the petition to revive based on the patent application being unavoidably abandoned be granted, Applicant asserts that the petition to revive based on the patent application being unintentionally abandoned be considered and granted. The entire delay in filing the Request for Continuing Examination (RCE) cofiled with the present petitions was unintentional. That is, at no time from the mailing of the supplemental final office action response filed on the six-month date of the final rejection, April 19, 2005, through the date that all extensions of time in the present patent application had passed such that the patent application became abandoned, on September 19, 2005, did Applicant intentionally delay filing the RCE. Applicant believed that the filing of such an RCE was unnecessary, until Applicant's representative, Michael Dryja, received the second advisory action of September 30, 2005 – after the application had already gone abandoned on September 19, 2005.

That is, as has been described above, Applicant's representative, Michael Dryja, did not docket any further due dates in the present patent application once the supplemental final office action response was filed on April 19, 2005, because he believed that the USPTO would be mailing another office communication that would present itself with a new "clock" in which to respond. In light of the Examiner interview conducted on April 18, 2005, Mr. Dryja believed that the USPTO would be mailing a notice of allowance or another final or non-final office action. In either case, Applicant would then have had a new time period in which to provide a response. At worst, then, the abandonment of the present patent application resulted from Mr. Dryja's unintentional delay in filing the RCE that has been cofiled with the present petitions.

For these reasons, Applicant requests in the alternative that the petition to revive based on unintentionality be granted, if the petition to revive based on unavailability is not.

McAdams

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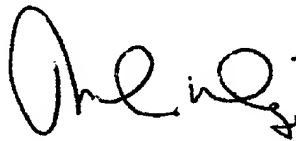
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Respectfully Submitted,



October 25, 2005

Date

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Attorney/Agent for Applicant(s)

Law Offices of Michael Dryja  
704 228<sup>th</sup> Ave NE #694  
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tel: 425-427-5094  
fax: 206-374-2819